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**IN THE  
COURT OF APPEALS OF INDIANA**

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RICHARD POSLEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0603-CR-194
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Mark Stoner, Judge  
Cause No. 49F09-0510-FD-172726

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**October 16, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**SHARPNACK, Judge**

Richard Posley appeals his sentence for theft as a class D felony<sup>1</sup> and his enhancement for being an habitual offender.<sup>2</sup> Posley raises one issue, which we revise and restate as whether Posley's sentence is inappropriate. We affirm.

The relevant facts follow. On October 5, 2005, Mills Greyson was on his lunch break in Indianapolis. Mills drove to a restaurant and parked twenty feet from the restaurant. Mills took his keys, left the car windows down, and went into the restaurant. While in the restaurant, Mills saw Posley lean into his vehicle and grab the stereo. Mills ran out of the store, and Posley rode off on a bike while carrying the stereo. Mills entered his vehicle and noticed that his black pocketknife was also gone. Mills pursued Posley until Posley turned off the road, and Mills was unable to follow. Mills returned to work and called the police.

Indianapolis Police Officer Jeff Parmelle responded and told Mills to show him where he last saw Posley. Officer Parmelle followed Mills for two and a half blocks. Mills saw Posley walking down the street with the stereo in his hands and pointed at Posley. Officer Parmelle approached Posley, told him to place the stereo on the police car, and placed him in handcuffs. Officer Parmelle patted down Posley and took a black pocketknife out of Posley's pocket. Mills identified the stereo and knife as the items that were stolen from his car.

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<sup>1</sup> Ind. Code § 35-43-4-2 (2004).

<sup>2</sup> Ind. Code § 35-50-2-8 (2004) (subsequently amended by Pub. L. No. 71-2005, § 11 (emerg. eff.

The State charged Posley with theft as a class D felony. The State later alleged that Posley was an habitual offender. After a jury trial, the jury found Posley guilty of theft as a class D felony. Posley waived his right to trial by jury on the habitual offender charge. Posley later stipulated that he had three prior convictions to qualify him as an habitual offender.

At sentencing, the trial court found the fact that Posley waived his right to a jury trial on the habitual offender charge as a mitigator. The trial court found Posley's criminal history as an aggravator. The trial court sentenced Posley to two and a half years for his theft as a class D felony conviction and enhanced that sentence by three and a half years because of his habitual offender status, for an aggregate sentence of six years.

The sole issue is whether Posley's sentence is inappropriate. Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Posley asks that we revise his six year sentence to three years and nine months.

Our review of the nature of the offense reveals that Posley stole a stereo and a knife from a parked vehicle in the middle of the day. Our review of the character of the offender reveals a lengthy criminal history. As a juvenile, Posley had adjudications for disorderly conduct, battery, burglary, and possession of a handgun by a minor. As an

adult, Posley has convictions for criminal conversion as a class A misdemeanor, possession of paraphernalia as a class A misdemeanor, theft as a class D felony, resisting law enforcement as a class A misdemeanor, two counts of intimidation as class A misdemeanors, resisting law enforcement as a class D felony, operating a vehicle having never received a license as a class C misdemeanor, intimidation as a class D felony, and four counts of auto theft as class D felonies. After due consideration of the trial court's decision, we cannot say that the sentence is inappropriate in light of the nature of the offense and the character of the offender. See, e.g., Sallee v. State, 785 N.E.2d 645, 654 (Ind. Ct. App. 2003) (concluding that the defendant's sentence was not inappropriate), trans. denied, cert. denied, 540 U.S. 990, 124 S. Ct. 480 (2003).

For the foregoing reasons, we affirm Posley's sentence for theft as a class D felony and the enhancement due to his status as an habitual offender.

Affirmed.

KIRSCH, C. J. and MATHIAS, J. concur